No. 80-586

IN THE

Supreme Court of the United States

October Term, 1980

CHEVRON SHIPPING COMPANY (STANDARD OIL COMPANY OF CALIFORNIA),

Petitioner,

vs.

GILBERT A. BAPTISTE,

Respondent.

On Writ of Certiorari to the Court of Appeal of California, Second Appellate District — Division One.

REPLY TO BRIEF IN OPPOSITION TO PETITION FOR WRIT OF CERTIORARI.

THOMAS E. WORKMAN, JR.,
Counsel of Record,
JANE H. BARRETT,
MARY J. BUSH,
LAWLER, FELIX & HALL,
700 South Flower Street,
Los Angeles, Calif. 90017,
(213) 629-9300,
Attorneys for Petitioner.

Parker & Son, Inc., Law Printers, Los Angeles. Phone 724-6622

No. 80-586

IN THE

Supreme Court of the United States

October Term, 1980

CHEVRON SHIPPING COMPANY (STANDARD OIL COMPANY OF CALIFORNIA),

Petitioner,

vs.

GILBERT A. BAPTISTE,

Respondent.

ARGUMENT.

I

THIS COURT HAS JURISDICTION UNDER 28 U.S.C. §1257

Respondent, Gilbert Baptiste, contends this Court has no jurisdiction under 28 U.S.C. §1257(3) on the basis that the California Supreme Court's denial of petitioner's (Standard Oil Company of California) Petition for Hearing is not a final judgment reviewable by this Court. This contention is erroneous for several reasons.

First, under California law the denial of a petition for extraordinary relief by the California Supreme Court after a determination on the merits by the California Court of Appeal is a final determination. CAL. CIV. PROC. CODE §1064 (West). In California, petitioner is forever foreclosed from further petitioning or appealing the legal issue of whether punitive damages are available under federal maritime law. The California Courts consider the legal issue

resolved and will not disturb it regardless of the outcome at trial. Consequently, the important legal issue of whether punitive damages are allowable under the Jones Act (46 U.S.C. §688) or federal maritime doctrine of unseaworthiness is effectively unreviewable on appeal from a judgment after trial. Petitioner's only recourse is to this Court.

Second, this Court has squarely held that a denial by the California Supreme Court of a petition for extraordinary relief is a final judgment reviewable under 28 U.S.C. §1257. *Madruga v. Superior Court*, 346 U.S. 556, 557 (1953).

Finally, the decision of the California Courts to severely alter federal maritime law will erode long standing federal policy requiring uniformity in maritime matters and restricting states from interfering with established maritime law. If this Court does not accept review of petitioner's writ, the California Courts' erroneous decision, which dramatically expands federal maritime law, will remain the rule of law in direct conflict with decisions of lower federal courts as well as decisions of this Court.

This Court has jurisdiction under 28 U.S.C. §1257(3) and should entertain a hearing to resolve whether the California State Courts can judicially modify federal maritime law by allowing the recovery of punitive damages under the Jones Act (46 U.S.C. §688) and federal doctrine of unseaworthiness.

It is respectfully submitted that the Petition for Certiorari should be granted.

Respectfully submitted,

THOMAS E. WORKMAN, JR.,
Counsel of Record,
JANE H. BARRETT,
MARY J. BUSH,
LAWLER, FELIX & HALL,
Attorneys for Petitioner.